

PATENT
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claims 1, 9-21 and 29-31, and it is understood that the Examiner can broaden the search to include other species, e.g., upon determining that a species is allowable, or as discussed herein, when there is a relationship among the species and/or number of species is not too great.

In this regard, the Examiner is respectfully requested to review MPEP § 808.01(a) which states that "where there is no disclosure of relationship between species (see MPEP §806.04 (b)), they are independent inventions and election of one invention" is required (July 1998). In view of MPEP §803, however, when the generic claim includes sufficiently few species that a search and examination of all the species at one time would not impose a serious burden on the examiner, then a requirement for election is inappropriate.

In the instant case, there is a disclosure of relationship between the claimed species. Applicants' claims are directed to, *inter alia*, chaperone polypeptides which are active in the folding and maintenance of the structural integrity of other proteins. Unity of invention, therefore, exists.

Thus, Applicants also respectfully assert that examination of the generic claims does not impose a serious burden on the Examiner. The claims are directed to chaperones of a GroEL sequence known to be essential in mediating polypeptide chain folding. Chaperone fragments of a GroEL sequence are a discrete class of compounds, distinctive in form and limited in number. An examination of the claimed polypeptides and methods of making a polypeptide with respect any one chaperone fragment would inevitably encompass a search of the claimed polypeptides and methods of making a polypeptide with respect to the other chaperone fragments.

The end-results of the present election requirement would be inefficiencies and unnecessary expenditures, by both the applicants and the PTO, and extreme prejudice to

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applicants (particularly in view of GATT, a shortened patent term may result in any divisional applications filed). The Examiner is respectfully reminded that the present election of species requirement can call for Applicants to now prosecute even more divisional applications from the present claims. This is an unfair burden on Applicants, especially in view of the now long pendency and, three restriction requirement Office Actions to date.

Further, the election requirement has not been shown to be proper, especially since 1) the requisite showing of serious burden has not been made in the Office Action, and 2) there are relationships among the chaperone polypeptide species.

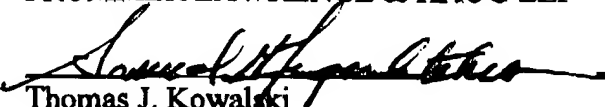
Hence, it is evident that there is unity of invention and allowable subject matter in the pending claims, and in view of the foregoing, reconsideration and withdrawal of the requirement for election of species, and favorable consideration of all of the claims on the merits, are respectfully requested.

As this paper is being submitted within the one-month term set for reply, no fees are believed to be owed. However, the Commissioner is hereby authorized to charge any fees associated with this paper, or credit any overpayment in fees, to Deposit Account No. 50-0320.

In view of the foregoing, reconsideration and withdrawal of the election of species requirement and favorable consideration of all the claims on the merits are respectfully requested.

Respectfully submitted,
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